IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 889 OF 2005

IN

STAMP NUMBER MAIN NO. 2827 OF 2005

SHRI PURSO NARAYAN GOSAVI AND 8 ORS., ...Applicants

Versus

SHRI GANESH RAGHOBA GOSAVI AND ORS., ...Respondents

Mr. Nitin Sardessai, Advocate for the applicants.

Coram:- P.V. KAKADE, J.

Date:- 18th September, 2006

P.C.

Heard Advocate for the applicants. Respondents No.1(a) and 3(d) are reported dead. However, the applicants seek to delete their names. In view of the facts and circusmtances, the prayer is granted and names of respondents No.2(a) and 3(d) are permitted to be deleted. The remaining respondents are served, but none appears.

2. This is an application for condonation of delay of 147 days on the ground that under a bonafide mistake, the applicants filed a second appeal within the prescribed time on 17.8.05 before this Court against the order dated 18.6.2005, passed by the lower Court in Regular Civil Appeal No.19/04. However, by order dated 27.10.2005, it was observed that no second appeal would lie against the order of remand by virtue of Order 43(1)(u) of the Code of C.P. and hence, the second appeal was dismissed with liberty to file an appeal from order. Hence, the present appeal is

being filed, which is, obviously, delayed due to the facts involved.

3. In my considered view, the ground mentioned is sufficient to condone the delay. In the result, the application is made absolute in terms of prayer clause (a) and stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.